

Amendment No. 1 to HB1217

Keisling

Signature of Sponsor

**AMEND Senate Bill No. 1459**

**House Bill No. 1217\***

by deleting all language after the enacting clause and substituting instead:

SECTION 1. Tennessee Code Annotated, Section 4-15-102(a), is amended by designating the existing language as (a)(1)(A)-(C) and adding the following new subdivision (a)(2):

(2)

(A) Notwithstanding another law to the contrary, a public institution of higher education may, at the institution's discretion, approve and supervise the public institution of higher education's capital project if:

(i) The project is managed by a higher education state procurement agency;

(ii) The project involves a building or facility used primarily for non-academic purposes; and

(iii) The project is either fully funded by donations received from a third-party or revenue from self-supporting auxiliary projects, including projects financed with revenue bonds, or both.

(B) If a public institution of higher education approves or supervises a project under subdivision (a)(2), then:

(i) A net increase in square footage of the building or facility is not eligible for maintenance funding from this state;

(ii) To the extent that following commission policies does not remove the authority provided by subdivision (a)(2)(A), the higher education state procurement agency shall follow commission policies regarding the final selection of designers and contractors, and shall be responsible for the final selection of designers and contractors for the project;

(iii) To the extent that following commission policies does not remove the authority provided by subdivision (a)(2)(A), the higher education state procurement agency shall follow commission policies regarding resolution of procurement protests, and shall be responsible for the final resolution of protests;

(iv) The higher education state procurement agency shall utilize contracts provided by the state architect and may revise the terms of such contracts only upon the approval of the state architect; and

(v) The project must be approved by the governing board of the institution of higher education, or its designee, and must be reported to the commission on a quarterly basis. Reports required pursuant to this subdivision (a)(2)(B)(v) must begin at the time a contract for the building or design of a project is executed and end upon completion of the project. However, projects reported pursuant to this subdivision (a)(2)(B)(v) are not subject to additional disclosure by a state entity beyond the inclusion of revenue bonds requested for the project in the general appropriations act.

SECTION 2. Tennessee Code Annotated, Section 4-15-102(c)(1), is amended by adding the following new subdivision (D):

(D) For capital projects that do not utilize funds appropriated for capital maintenance or capital outlay, a public institution of higher education may select and contract with designers, architects, or engineers and complete up to fifty percent (50%) of schematic design work for capital projects prior to submission to the commission for review and approval if the following conditions are met:

(i) To the extent that following commission policies does not remove the authority provided by subdivision (a)(2)(A), the higher education state procurement agency shall follow commission policies regarding the final selection of designers and shall be responsible for the final selection of designers for the project;

(ii) To the extent that following commission policies does not remove the authority provided by subdivision (a)(2)(A), the higher education state procurement agency shall follow commission policies regarding resolution of procurement protests, and shall be responsible for the final resolution of protests;

(iii) The higher education state procurement agency shall utilize contracts provided by the state architect; and

(iv) The project must be approved by the governing board of the institution of higher education, or its designee.

SECTION 3. Tennessee Code Annotated, Section 4-15-102(e), is amended by adding the following as a new subdivision:

(3) Public institutions of higher education shall establish a transparent process to publicly disclose capital projects of ten million dollars (\$10,000,000) or less that do not utilize bond funds or funds appropriated for capital outlay or capital maintenance and are paid with current or residual funds, directly to the state building commission. The disclosure required pursuant to this subdivision (e)(3) must consist of a description of the

project and the project budget and funding source, as the project is approved by the board of the institution or the board's designee. Projects disclosed pursuant to this subdivision (e)(3) are not subject to additional disclosure requirements by a state entity.

SECTION 4. Tennessee Code Annotated, Section 4-15-107, is amended by inserting the following as a new appropriately designated subdivision:

"State procurement agency" means, as appropriate, the department of general services, state of Tennessee real estate asset management; University of Tennessee, department of capital projects; Tennessee board of regents, department of facilities development; East Tennessee State University, office of facilities management, planning, and construction; Austin Peay State University, capital planning, design and construction; Tennessee Technological University, office of capital projects and planning; Middle Tennessee State University, department of campus planning; and University of Memphis, department of campus planning and design, or the successors-in-interest to such departments, or any additional state entities, or subdivisions thereof, as determined by the commission.

SECTION 5. Tennessee Code Annotated, Section 4-15-107(3), is amended by deleting subdivisions (A) and (B) and substituting instead:

(A) Is being funded by direct appropriations for major maintenance;

(B) Will cost a state entity, other than a public institution of higher education, in excess of two hundred fifty thousand dollars (\$250,000); or

(C) Will cost a public institution of higher education in excess of one million dollars (\$1,000,000); and

SECTION 6. Tennessee Code Annotated, Section 49-7-132, is amended by deleting the section and substituting instead:

An expenditure or combination of separate expenditures in excess of one million dollars (\$1,000,000), or a subsequent greater threshold established by the state building commission, made in a six-month period on a single building or structure owned or

leased by a public institution of higher education or governing board of the institution, is subject to the approval of the state building commission.

SECTION 7. This act takes effect July 1, 2023, the public welfare requiring it, and applies to projects under the approval or supervision of the state building commission prior to and after the effective date of this act.